

Appln. No.: 09/936,638  
Attorney Docket No. 10543-032

## **II. Remarks**

In response to the Office Action mailed April 27, 2004, kindly enter the foregoing amendment and consider the following remarks.

Pursuant to 37 C.F.R. §1.112 Applicants request reconsider of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. In this Amendment, claim 1 has been amended, claims 8-11 have been added, and thus claims 1-11 are pending and are at issue herein. In view of these amendments and the following remarks, favorable reconsideration of this application is requested.

### **ALLOWABLE SUBJECT MATTER**

The Applicants would like to thank the Examiner for indicating allowed subject matter. In particular, the Examiner indicated on page 7 of the Office Action that claims 6 and 7 are allowed. The allowance is appreciated.

### **OBJECTIONS TO THE SPECIFICATION**

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. The Examiner states that the specification has described the valves as separating valves, but claims recite switching valves. It appears that the Examiner has considered the term "switching" as an adverb, rather than considering the term as a verb, as was intended. In the future, the Applicants encourage the Examiner to contact the Applicants for telephonic interviews in order to avoid piecemeal examination (MPEP § 707.07(g)).

### **CLAIM REJECTIONS UNDER 35 USC §102 and §103**

Claim 1 has been rejected under 35 USC §102(e) as being anticipated by Fuhrer (U.S. Pat. No. 6,655,753). Claim 1 also stands rejected under 35 USC § 103(a) as being unpatentable over Kahl (U.S. Pat. No. 6,520,601). Claim 1 stands

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rejected under 35 USC § 103(a) as being unpatentable over Cornell (U.S. Pat. No. 6,418,906) in view of the Kahl reference.

With regard to these rejections, the Applicants respectfully assert that neither the Fuhrer reference, nor the Kahl reference, nor the Cornell are available as prior art. As noted in the filing receipt of the present application, this application is a Section 371 of PCT/EP00/02347, filed March 16, 2000. Further, this international application claims priority to DE 199 11 788.8 and DE 100 11 801.1, filed March 17, 1999 and March 14, 2000 respectively. As is readily apparent from the front page of the Fuhrer reference, the Kahl reference, and the Cornell reference, none of these references are available as prior art under Section 102, because none of their effective filing dates precedes the priority of the present application.

For these reasons, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 based on either of the Fuhrer reference, the Kahl reference or the Cornell reference.

Claims 1, 3 and 4 stand rejected under 35 USC §103(a) as being unpatentable over Oyama (U.S. Pat. No. 6,203,123). Claim 5 stands rejected under 35 USC §103(a) as being unpatentable over the Oyama reference in view of Reinartz (U.S. Pat. No. 5,188,433).

Claim 1, as amended, recites the step of generating a pressure build-up in at least one defined section of the brake circuit. To the contrary, the Oyama reference does not teach generating a pressure build-up in a defined section of the brake circuit. Rather, the Oyama reference teaches detecting the pressure of a master cylinder in a brake system (column 3, lines 27-30). In fact, one embodiment of the Oyama reference teaches away from the present invention, and teaches a detection of pressure only when the master cylinder is not producing pressure (column 6, lines 1-10).

For these same reasons, the Oyama reference does not teach the step of detecting a pressure in the defined section. The Oyama reference does not generate or detect a pressure in a defined section.

The Applicants also traverse the Examiner's rejection inasmuch as the

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Examiner is relying on Figures 5 and 6 for disclosure of a predetermined pressure build-up within time limits. The only reference to Figures 5 and 6 in the Oyama reference is in the Brief Description of the Drawings section, and in column 3, lines 5-15. Notably, this latter description is in the Background of the Invention section, and merely describes how the viscosity affects the pressure "and particularly the pressure range", which thereby can affect the operation of an electromagnetic proportional pressure control valve 10 which is used to introduce fluid pressure from the pump circuit into the wheel cylinder 4 and to discharge said fluid pressure from the cylinder 4 into the reservoir 3 (column 1, lines 57-62). Accordingly, Figures 5 and 6 merely disclose that which is already known in the prior art, namely that viscosity affects the pressurization of fluid, which in turn affects how the electromagnetic valves which generate such a pressure should be controlled. Merely because these graphs depict pressure versus time curves, does not in any way teach, suggest or imply that the apparatus or methods taught by the Oyama reference disclose measuring a time which is required to build-up a pressure or the magnitude of a pressure build-up within certain time limits.

For these reasons and all the reasons given above, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 3 and 4 over the Oyama reference.

With regard to claim 5, the Examiner has presumably rejected claim 5 over the Oyama reference in view of the Reinartz reference, although the body of the rejection on page 6 refers to modifying the Meier reference. Clarification is requested.

Inasmuch as the Applicants can understand the rejection, the Applicants respectfully assert that Reinartz does not disclose activating a pump to generate a pressure build-up. As discussed in prior Responses, the Reinartz reference relates to the use of a bi-metal spring in a differential pressure limiter. The Applicants note that all brake systems involve a pressure build-up in that the depression of a brake pedal, or the activation of anti-lock braking system, generates a build-up of pressure in the brake line which is delivered to the wheel brake. This normal pressure build-up in a typical braking system is different than the pressure build-up in a defined

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section of the brake circuit according to the claims of the present invention.

For these reasons and all the reasons given above, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 5.

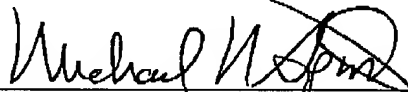
#### CONCLUSION

In view of the preceding amendments and remarks, the Applicants respectfully submit that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Applicants respectfully request that the Examiner contact the Attorney of the Applicants at the earliest convenience of the Examiner.

Applicants have calculated no fees to be presently due in connection with the filing of this Paper. However, Applicants have authorized charging of any fee deficiency to the deposit account, as indicated in the Transmittal accompanying this Statement.

Respectfully submitted,

6/21/04  
Date

  
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